

WALLACE (D.R.)

THE

TREATMENT OF CRIME.

BY

D. R. WALLACE, M. A., M. D.,
WACO, TEXAS.

"Parum est improbos coercere pena, nisi probos efficias disciplina."
CLEMENT XI.

Read before the TEXAS STATE MEDICAL ASSOCIATION, at its Twelfth Annual Session, and by that body referred to its Publishing Committee, with instructions to print and circulate in pamphlet form.



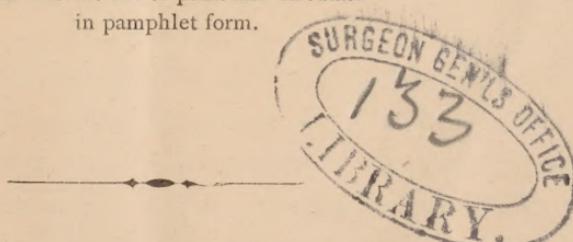
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On retiring from the presidency, in 1872, of this body, in the address usual on such occasions, I raised my humble voice against an evil it was believed was afflicting our social life in its dearest interests. Appeal was made to government—the strong arm of legislation invoked. The relief asked for was obtained. And if the legislation upon our statute book regulating the practice of medicine is not, as some complain, what it should be, it is the fault of the doctors, not of the legislators. It is the bad fate of medical men, it would seem, to agree in nothing. Their differences have stood in the way of legislation in all the States. Crude opinion and ill-digested theory are traditional—the bad heritage of the medical pro-

fession—and still obstruct, as in the past, every advance in medical progress. Our legislation, imperfect as it may be, is an advance. Time will cure these imperfections. Many States, since Texas moved in the matter, have enacted similar legislation. I advert to the subject, not to claim any merit for myself. How little I had to do in effecting the result, I know full well. It has been the work of the profession.

Gentlemen of the T. M. Association, I appear before you to-day with a more sacred message—one affecting the material, social and civil interest of the public in the highest degree. I come, in the name of the lowly, to plead the cause of the unfortunate, the degraded. Through you I hope to reach the public.

To ask if something should not be done in reference to penitentiary administration in our State were to insult your intelligence. The whole system all right-minded people feel to be a disgrace. There would seem to be a general opinion that something should be done—i. e., if the evils are remediable. It is the purpose of present study to prove that they are so, to a very considerable extent at the least.

We start out as our point of departure with a proposition from which, it is believed, few will dissent, viz: That all punishment in human, as it doubtless is in the divine government, should be remedial—that all the incidents therewith connected should converge to this point, and that nothing inconsistent with this primal idea should enter as a constituent into the methods of punishment of crime.

It requires no philosopher to inform us that the punishment of the crime rarely cures the criminal. It would seem to be a self-evident proposition that what is needed is not so much punishment of the crime, though this be necessary, as the reformation of the criminal.

If Beccaria is right, and his statement would seem almost

a truism, that "all legislation which stops with the punishment of the crime and does not aim to prevent it, is imperfect," what is to be thought of the penitentiary administration of Texas.

An appeal is made to this convention of medical men in the conviction that from the nature of their studies they will understand the subject better, and, appreciating its bearing upon the welfare of society, they will use greater and more enlightened efforts to bring the public to a proper knowledge of the subject. The whole matter, as you are aware, is environed with difficulties and is treated by the most advanced publicists as a branch of psychology.

Is there not too little of the right sort of feelings exercised towards our criminal population? Because some of them display an intelligence of high order and are capable of intellectual combinations and an ingenuity showing great mental power, one is shocked at what seems the inexcusable baseness of their crimes, and is apt to regard any sympathy for criminals of this class especially, to say the least, a weakness; if not something deserving a worse name. Is sufficient account taken of the fact that hidden away in the secret recesses of the inner man, removed from observation, there is an unexplored realm—a dark bloody ground, in which brood and fester passions and moral perversities, as inexplicable to the man of normal faculties as the frozen secrets of the North pole to a savage inhabitant of Caffraria?

"By the side of the normally constituted, we have anomalies—monstrosities. In a physical point of view, by the side of men, well formed, strong, of robust health, and of noble mien, we find beings ill-shaped, sickly, ignoble, and of sinister aspect. Intellectually regarded, by the side of men of genius who create sciences and produce those marvels of the imagination, which, in literature and the arts, kindle our en-

thusiasm and raise our admiration to the highest pitch, we find vulgar intelligences insensible to the creations of genius and the splendors of nature—incapable of lifting themselves above the most material views of life; and, as we descend, we meet the weak-minded imbecile, the idiotic. These imperfections, infirmities and monstrosities we see around us in the physical and intellectual world, we shall find in the moral as marked numerous and various. Is there nothing in these unfortunates to challenge pity? Owes society them nothing—nothing, when overtaken in crime, but to punish them from a feeling of vindictiveness towards them and to deter others? Is there no way to temper justice with mercy, help the criminal in some way and, subserve the general interest at the same time? Is it inferred, because the criminal is intelligent, commands his ideas, reasons, remembers and deports himself like other people, he is morally as intelligent; is capable of making the same moral discriminations; needs no more help from society to enable him to repress his base instincts and low desires? As reasonable to require a Thersities to assume “the form and moving,” material bearing, and lofty mien of Achilles; as well expect Iago to display the moral elevation of Othello.

To suppose these observations are intended to prove the irresponsibility of the people, even these most abandoned of them, were a misapprehension of their whole scope. Their purpose is to show that these people deserve pity for their misfortune at the same time that they receive punishment for their crimes. Is not such course dictated as much by the best interest of society as by the best instincts of humanity?

If execution has answered in any degree to intention, it is now in order to inquire: is there anything that can be done, any course pursued, compatible with the punishment of the criminal—anything likely to make him a better citizen and

at the same time will protect society from the assaults of the criminal classes, more effectually and economically, than the means now employed. No doubt exists but that such means are at hand—and precisely the means the pecuniary and social interests of society would dictate, reason suggest, humanity inspire and religion sanction. Why not employed? Why society not better protected, and at less cost? Why so little attention is given to this paramount social problem—the punishment of crime and cure of criminals—I am sure I do not understand. It may be stated, as somewhat explanatory, that it is beset with difficulties. It can not be possible, can it, that our civilization has not as yet sufficiently purified itself from the bias and influence of the savagery of the past as to rise above all the promptings of vindictiveness incited by the crime in our dealings with the criminal, so as to punish according to the dictates of reason unclouded by any of the distortions of passion? Is the suspicion unjust? Then we discard it.

That it is more inexpensive to reform those susceptible of being reformed than to punish their crimes through the complicated barbaric machinery of the criminal procedure now had recourse to—which, by the way, is as much at war with reason and common sense, to say nothing of justice and equity (attributes unknown to it), as any custom of the middle or dark ages—admits of no more doubt than that it is more in accordance with the dictates of humanity and the sanction of religion. A learned judge remarked to the writer only a few days ago that our State penitentiary is a school of crime and a seminary of vice; that if the convict is not wholly bad when he goes there, he is sure to come away so. What a commentary this from such a source!

It is the custom to mix together all classes—I mean the same sex of course—without reference to age, crime, habits of

life, reciprocal influences one upon another. The treatment pursued towards them, so far as their moral improvement is concerned, is quite in keeping with the classification. But they have the gospel preached to them. They do indeed! I must say, where I a penitentiary convict, and submitted to such treatment as the average convict is, I would regard this as the unkindest cut of all—an indignity to my person and an insult to my reason.

I have visited prisons in various parts of our country, and if things have not changed very much within the last few years, the convicts are shoved around as things—not men; are arrayed in a repulsive, humiliating garb; spoken to rudely, not even being addressed by the name their mothers called them by, but as a *number*; put to labor often stupid and ill-suited to their natural aptitudes and habits of life—one that teaches them nothing, but serves to disgust and irritate them, and from which they feel it improbable they can reap any advantage in the future. Those having immediate control of them are most generally ignorant and coarse. Such persons have no, or little, moral force. To insure obedience and to maintain prison discipline, they appeal to the fears of the convict. This can have but one moral effect. Fear is a bad educator. It makes its subject, abject, mean; debases him; crows and discourages him. The world looks dark and forbidding already—he sees nothing to look forward to. There is little within; and, if those having the charge of him make the light within him darkness, how great is that darkness!

But I delay. Why not temper justice with mercy? Is gratuitous pain and suffering desirable?

Instead of penitentiary system above deprecated, who not houses of correction for boys and the youth—reformatories as well as penitentiaries; places suited to the age and moral condition of all? They would, in the long run, be less ex-

pensive. The following simple classification will serve our purpose in indicating our views as to the main features that should characterize prison life properly conducted to insure greatest good to all: First, the very youthful; secondly, the adult criminal. These may be sub-divided into those of average morals who have been hurried into crime by sudden passion, those who are not hardened in vice and criminal practices, and those who were originally moral imbeciles, or have persevered in crime until they offer no chance for moral reclamation.

This last class, when known to be such, or their crimes prove them so, are the fit subjects of penitentiary administration, in regard to whom there is nothing more to state. They should be treated with humanity, submitted to no indignities and degradation not absolutely inseparable from penal restraint. That harshness of manner and coarseness of behavior, too common in prisons, and which seem to proceed upon the idea that the convicts are there for punishment, and the more they are humiliated and degraded, the better for all the objects and purposes contemplated, answers, it is believed, no good object in any respect. There are few persons not entire moral idiots who have not some soft spots in their hearts still. It is related of one of this class that he was asked in a kind tone of voice by his keeper to take a little girl, who was accompanying her mother visiting a prison, up a flight of stairs, and who took up the little one reluctantly, and with the usual scowl upon his face and habitual contraction of brow; and upon the little girl saying: "Yes, take me, and I will kiss you;" and when she kissed him said, "Now kiss me," he commenced to weep; and his improvement dated from that incident, and went on to perfect reformation.

It is, of course, of the other classes that most is to be expected; for whom most can be accomplished. It is presumed

they are separated from the hardened and abandoned class, and put to such occupation as will keep them employed a suitable portion of their time. This class, except during the hours of sleep, should not be left for short intervals to their own self-communings. They are for most part bad. Good resolutions are seldom formed in private, drawn from their unassisted reflections. They are bad and bad begets its like. They cannot rise above themselves. Come from without it must, if good come at all. They should, therefore, be kept in close surveillance. This is a cardinal principle that should never be lost sight of in corrective and reformatory institutions. While the specific influences had recourse to should be adapted to the diversified characters to be operated upon, the general plan should be to reach the soul from without. It is only by outside influences that the low degraded nature can be raised out of and above itself. It were mere waste of time to try to inspire a nature congenitally low and debased by long years of vicious practices with any transcendental views of abstract duty. Such persons would require, before this were possible, a new birth indeed—a veritable epigenesis. Go down to their level and work up. Work on selfishness. They should be induced to respect themselves. No man ever had any respect for others who did not respect himself. They can be encouraged to cultivate the virtues that will enable them to take care of themselves; can be accustomed to a regular life; habits of labor and patient industry. To this end their turn of mind and natural aptitudes should be made matters of special study on part of those who have the oversight of them.

The bearing and manner of those having the charge and supervision of these people ought to be such as to impress them that they are deprived of liberty and placed under rigid discipline, less with a view to punishment than to re-

form them ; that their fellow-men on the outside do not regard them as outlaws out of the reach of mercy, cut off from all human sympathy; but they still desire their well-being and reform ; are ready to welcome them to the quiet walks of respectable citizenship. Let them feel there is still hope for them, a chance to better their condition, a prospect still ahead ; that though they have had the misfortune to fall under the tyranny of bad habits and vicious companionship, still they are "men for a' that," and that they may still achieve usefulness and respectability ; that it is only the vicious and wicked who would hedge up their way to a better life. They should be stimulated by kind words, rolls of honor, premiums and rewards.

All this can be done by a good man of broad sympathise and a kindly nature just as easily, and more so, than by useless punishment and needless irritation to sow with disgust and hatred the path that leads to a reformed life. In order that they may cultivate sentiments of personal respect, their manhood should not be outraged even when necessary to discipline for bad conduct.

How different all this from the treatment common in penitentiary management. Is it over-stating the fact? (I certainly do not desire to do so ; it is bad enough without being exaggerated !) when I say prison life, as I have observed it in different countries—is no worse than I know of here—is a systematic degradation.

The question recurs: Why inflict needless pain? Why not temper justice with mercy, even if it do no good? But when to this is added that in outraging the feelings and inflicting gratuitous severity and indignity no good is accomplished; but on the contrary a fellowman, unfortunate and degraded though he be, is made worse, when a more humane treatment

might have saved him, such conduct becomes wholly without excuse and indefensible.

As between management presided over and directed by skill, humanity and kindness, and that of our penitentiary, what must be in the nature of things the difference in results? When one sets himself down and calculates what might be accomplished with infinitely less suffering and expense, the recollection of what is daily passing among our convict population must suffuse his cheeks with a blush of shame.

Many persons, particularly among juvenile offenders, are committed to penitentiary restraint who are rather unfortunate than vicious; more the victims of accident than of depravity. Such should be made subjects of special encouragement; and any system that does not contain provision for their liberation upon their presenting reliable evidence of true and sincere repentance and reformation is defective. Hope of freedom should be encouraged under all reformatory systems. It may be necessary to commit offenders for a fixed period. There should be some latitude—discretion deposited somewhere. It is not obvious why certain offenders, after they have given unmistakable evidence of the genuineness and sincerity of their reformation, should be longer deprived of their liberty, still less is one able to comprehend why a most dangerous and depraved criminal, known to be so, should be committed for only a few months and then turned at large, ready with the first opportunity or upon the slightest provocation to make another assault upon society, and after being carried again through the expensive machinery of the criminal courts, returned to prison.

The estimate in France some years since was that under the old penitentiary system there occurred from forty to forty-five per cent. of recidivists, as they are called, *i. e.*: lapses into crime.

The methods yielding such results must be vicious. May it not be that incited by the promptings of vengeance, (unworthy of true manhood, still less of a great State), society has been more intent upon the punishment of the crime than the cure of the criminal? May it not be added, in view of the light cast on this subject by psychological study and the efforts of philanthropists, that such legislation is not only without the least justification in reason, but is unworthy the intelligence, humanity and religion of our times?

It is in order to inquire into the results of an enlightened, humane system. Of all going out of the prison of Demetre, France, the Superintendent estimates there were but four per cent. of lapses into crime—recidivists; a difference, these figures true, of about forty per cent. M. Demetz, who had charge, tells us he was rarely ever deceived in their professing reformation. Nothing, he tells us, is easier than to discriminate between the truly reformed and those simulating it to effect their liberation.

Under the reformatory system, once committed to penal restraint, the inmate is retained in custody and under discipline until satisfactory evidence is given of reformation. Under our system great numbers of the most dangerous characters, after having been under penitentiary administration just long enough to perfect themselves in a criminal education—anxious, doubtless, many of them to obtain their enlargement, more than anything else, to put in practical operation schemes of deviltry concocted in imprisonment—are turned at large to repeat their crimes in still uglier and more exaggerated forms.

If public attention shall be directed to this subject, the object of the present paper will have been accomplished. I do not hesitate to affirm, in view of such expressions of public opinion as I have been able to collate upon the subject, that the

penitentiary system of Texas is not in harmony with the more advanced views and intelligence of our people. None, it is believed, will contend that Christian morals could, by any amount of reasonable testimony, be brought to tolerate any such system. No intention to reflect upon any one. No one that I know of is particularly to blame. No man imbued with the spirit of this age would think of inaugurating any such system. It came down to us from an age in which witches were burned; lunatics, chained in dark cells reeking with filth and vermin, were whipped and tortured to exorcise the evil spirit with which they were possessed; when heretics were burned, drawn and quartered for opinion's sake.

These latter things have been found out of harmony with our civilization and been wisely left behind. Our system of prison life still survives as a relict of an age believing that Nemesis should pursue the criminal in this life; in the next hell flames should overwhelm him. Head hoary, hands tremulous, eyes ghastly with age, body bowed under the weight of years, it lingers on with ghastly aspect—a spirit of unrest, finding no companionship with the spirit of our times. Its days have been numbered, its works accomplished. With its collaborators of the past it doubtless served well its day and generation. It should be gathered to rest with its fathers, whether its companions have preceded it. May it follow them and be at rest, must be the prayer of every lover of his kind who has learned to hate its horrors and to deprecate its effects upon the criminal population.

